

SERVED: June 11, 1993

NTSB Order No. EA-3913

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 8th day of June, 1993

_____	)	
JOSEPH M. DEL BALZO,	)	
Acting Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Docket SE-13048
v.	)	
	)	
NICHOLAS POHL,	)	
	)	
Respondent.	)	
_____	)	

**OPINION AND ORDER**

The respondent, pro se, has appealed from the oral initial decision that Administrative Law Judge Jimmy N. Coffman rendered in this proceeding on May 11, 1993, at the end of an evidentiary hearing.<sup>1</sup> By that decision, the law judge affirmed an emergency order of the Administrator revoking "any and all certificates" held by respondent, including commercial pilot certificate No.

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<sup>1</sup>An excerpt from the hearing transcript containing the initial decision is attached.

154545415, for his alleged violation of section 61.59(a)(2) of the Federal Aviation Regulations, "FAR," 14 CFR Part 61.<sup>2</sup> We will deny the appeal, to which the Administrator has filed a reply in opposition.<sup>3</sup>

The Administrator's March 23, 1993 Emergency Order of Revocation, as amended at the hearing, alleged, among other things, the following facts and circumstances concerning the respondent:

2. On or about December 31, 1992, you presented for review your pilot logbook to a representative of the Administrator at the Raleigh, North Carolina, Flight Standards District Office.

3. You presented your pilot logbook for review to establish eligibility for and to obtain a written test authorization form to enable you to take the Airline Transport Pilot (ATP) written examination.

4. During the review and subsequent follow-up, the representative of the Administrator discovered that you

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<sup>2</sup>FAR section 61.59(a)(2) provides as follows:

**§61.59 Falsification, reproduction, or alteration of applications, certificates, logbooks, reports, or records.**

(a) No person may make or cause to be made--

\* \* \* \* \*

(2) Any fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used, to show compliance with any requirement for the issuance, or exercise of the privileges, or [sic] any certificate or rating under this part....

<sup>3</sup>We will also deny respondent's request for oral argument, as we find the record and the parties' written submissions on appeal to be an adequate basis for decision.

had made a number of false entries in your pilot logbook.

\* \* \* \* \*

7. From March 1, 1992 through May 31, 1992, during your employment with Gulfstream International Airlines, Inc., you made a number of entries in your pilot logbook to show that you had flown a total of 131.5 hours in civil aircraft N62PB, N69382 and N2615Z.

8. Gulfstream International Airlines, Inc. records show that you only flew 63.3 hours in company aircraft during the above-referenced time period.

\* \* \* \* \*

10. The false entries in your pilot logbook were made to show that you had flown more hours than you had actually flown in order to meet the number of hours required to show that you had acquired the experience necessary to show eligibility to apply for an ATP certificate.

In support of these allegations, the Administrator called as witnesses the FAA inspector referenced in paragraph 2 of the emergency order, which served as the complaint in this proceeding, and the current Vice President for Flight Operations at Gulfstream, who, at the inspector's request, had searched the carrier's pilot records for the time frame referenced in paragraph 7. In response to their testimony, respondent, who declined to testify under oath and be subject to cross-examination, gave an unsworn statement in which, insofar as is relevant here, he denied any intent to falsify his logbook and attributed any errors in his logbook to faulty memory in trying to recollect flight time on records destroyed in a storm.

The law judge did not credit the respondent's explanation for the false entries in his logbook, concluding that the Administrator had presented "a classic case of padding" (I.D. at

102). The respondent, in his one-page appeal brief, has not identified any basis for overturning either the law judge's assessment that the Administrator had met his evidentiary burden in the proceeding or his conclusion that the sanction sought by the Administrator is consistent with precedent. In the absence of such a showing, we will affirm the initial decision and the emergency order it sustained.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The respondent's appeal is denied, and
2. The initial decision and the emergency order of revocation are affirmed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HART and HAMMERSCHMIDT, Members of the Board, concurred in the above opinion and order.